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FEB 17 2011

OFFICE OF PETITIONS

In re Application of :
Lawrence R. Miller, et al. :
Application No. 10/026,403 : **ON PETITION**
Filed: December 21, 2001 :
Attorney Docket No. 72167.000570 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2011, to revive the above-identified application.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 31, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

Petitioner is advised that the issue fee paid on in conjunction with the filing of the petition on February 4, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3671 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/AMW/

April M. Wise
Petitions Examiner
Office of Petitions